

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1099

Introduced by Assembly Member Fuller

February 27, 2009

An act to amend ~~Section 17315~~ *Sections 17309, 17315, 81141, and 81147* of the Education Code, relating to school facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1099, as amended, Fuller. School facilities: construction.

Existing law, the Field Act, requires the Department of General Services under the police power of the state to supervise the design and construction of a school building, *as defined*, or the reconstruction or alteration of, or addition to, a school building, if not exempted under specified law, to ensure that plans and specifications comply with adopted rules and regulations and building standards published in regulations, and to ensure that the work of construction is performed in accordance with the approved plans and specifications for the protection of life and property. *As the work of construction or alteration progresses and when the department requires, the licensed architect or structural engineer in charge of observing construction or registered engineer in charge of observing other work, the inspector on the work, and the contractor are each required to submit reports, based on personal knowledge, as defined, to the department that the work and materials comply with the approved plans and specifications.* When the construction is completed, notice of completion is filed, specified reports are submitted to the department, and all required fees are paid, the department is required to issue a certification that the school building complies with the requirements of the Field Act.

This bill would eliminate the requirement that the contractor submit periodic reports to the department that the work and materials comply with the approved plans and specifications and would eliminate the requirement that notice of completion be filed before the department issues a certification that the school building complies with the Field Act requirements. The bill also would make technical, nonsubstantive changes to the above provision regarding certification of completion these provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17309 of the Education Code is amended
2 to read:

3 17309. ~~From~~ (a) From time to time, as the work of construction
4 or alteration progresses and whenever the Department of General
5 Services requires, the licensed architect or structural engineer in
6 charge of ~~observation~~ of observing construction or registered
7 engineer in charge of ~~observation~~ of observing other work, and
8 the inspector on the work, ~~and the contractor~~ shall each make to
9 the Department of General Services a report, duly verified by him
10 or her, upon a form prescribed by the Department of General
11 Services, based upon his or her own personal knowledge, indicating
12 that the work during the period covered by the report has been
13 performed and materials have been used and installed, in every
14 material respect, in compliance with the approved plans and
15 specifications, setting forth ~~such~~ detailed statements of fact as are
16 required by the Department of General Services.

17 The
18 (b) (1) The term “personal ~~knowledge~~” *knowledge*,” as used
19 in this section and as applied to the architect; and the registered
20 engineer, means the personal knowledge ~~which~~ that is obtained
21 from periodic visits to the project site of reasonable frequency for
22 the purpose of general observation of the work, and also ~~which~~
23 that is obtained from the reporting of others as to the progress of
24 the work, testing of materials, inspection, and superintendence of
25 the work that is performed between the above-mentioned periodic
26 visits of the architect or the registered engineer. The exercise of
27 reasonable diligence to obtain the facts is required.

1 The

2 (2) ~~The~~ term “personal knowledge” *knowledge*,” as applied to
3 the inspector, means the actual personal knowledge ~~which~~ *that* is
4 obtained from his or her personal continuous inspection of the
5 work of construction in all stages of its progress at the site where
6 he is responsible for inspection and, when work is carried out away
7 from the site, that personal knowledge ~~which~~ *that* is obtained from
8 the reporting of others on the testing or inspection of materials and
9 workmanship for compliance with plans, specifications or
10 applicable standards. The exercise of reasonable diligence to obtain
11 the facts is required.

12 ~~The term “personal knowledge” as applied to the contractor~~
13 ~~means the personal knowledge which is obtained from the~~
14 ~~construction of the building. The exercise of reasonable diligence~~
15 ~~to obtain the facts is required.~~

16 SECTION 1.

17 SEC. 2. Section 17315 of the Education Code is amended to
18 read:

19 17315. (a) When a school building constructed in accordance
20 with plans and specifications approved by the Department of
21 General Services is completed, ~~the notice of completion is filed,~~
22 and all final verified reports and all testing and inspection
23 documents, as required by this article or as required by the rules
24 and regulations adopted pursuant to this article, are submitted to,
25 and on file with, the Department of General Services, and all
26 required fees paid by the school district, the department shall issue
27 a certification that the school building complies with the
28 requirements of this article. This article does not prevent beneficial
29 occupancy by a school district before this certification is issued.

30 (b) When a school building, constructed in accordance with
31 approved plans and specifications, is completed but final verified
32 reports, as are required under Section ~~39151~~ 17309, have not been
33 submitted to the Department of General Services due to the
34 incapacitating illness, death, or the default of persons required to
35 file the reports, the Department of General Services, upon written
36 request of the school district, shall review all of the project records
37 and make the examinations it deems necessary to enable it to certify
38 that the school building otherwise complies with the requirements
39 of this article. The Department of General Services may request
40 the school district to have made, reported, and verified any other

1 tests and inspections that the department deems necessary to
2 complete its examinations of the construction.

3 (c) The costs incurred by the Department of General Services
4 in connection with this section shall be paid by the school district.
5 The actual costs to perform the examinations, tests, and inspections
6 shall be an appropriate cost of the project to be paid from the
7 building funds of the district. Certification of the project by the
8 Department of General Services shall be withheld until all the costs
9 have been paid by the school district.

10 (d) This section shall not relieve an individual of his or her
11 responsibility to file verified reports, as required in Section 17309,
12 or other documents required by the rules and regulations adopted
13 pursuant to this article. This section shall not abrogate the
14 provisions of Section 17312.

15 *SEC. 3. Section 81141 of the Education Code is amended to*
16 *read:*

17 81141. ~~From~~(a) From time to time, as the work of construction
18 or alteration progresses and whenever the Department of General
19 Services requires, the licensed architect or structural engineer in
20 charge of ~~observation of~~ observing construction or registered
21 engineer in charge of ~~observation of~~ observing other work, and
22 the inspector on the work, ~~and the contractor~~ shall each make to
23 the Department of General Services a report, duly verified by him
24 or her, upon a form prescribed by the Department of General
25 Services, based upon his or her own personal knowledge, indicating
26 that the work during the period covered by the report has been
27 performed and materials have been used and installed, in every
28 material respect, in compliance with the approved plans and
29 specifications, setting forth detailed statements of fact that are
30 required by the Department of General Services.

31 ~~“Personal~~

32 (b) (1) “Personal knowledge,” as used in this section and as
33 applied to the architect and the registered engineer, means the
34 personal knowledge that is obtained from periodic visits to the
35 project site of reasonable frequency for the purpose of general
36 observation of the work, and also that is obtained from the reporting
37 of others as to the progress of the work, testing of materials,
38 inspection and superintendence of the work that is performed
39 between the above-mentioned periodic visits of the architect or

1 the registered engineer. The exercise of reasonable diligence to
2 obtain the facts is required.

3 ~~“Personal~~

4 (2) “*Personal knowledge*,” as applied to the inspector, means
5 the actual personal knowledge that is obtained from his or her
6 personal, continuous inspection of the work of construction in all
7 stages of its progress at the site where he or she is responsible for
8 inspection and, when work is carried out away from the site,
9 personal knowledge that is obtained from the reporting of others
10 on the testing or inspection of materials and workmanship for
11 compliance with plans, specifications, or applicable standards. The
12 exercise of reasonable diligence to obtain the facts is required.

13 ~~“Personal knowledge,” as applied to the contractor, means the~~
14 ~~personal knowledge that is obtained from the construction of the~~
15 ~~building. The exercise of reasonable diligence to obtain the facts~~
16 ~~is required.~~

17 *SEC. 4. Section 81147 of the Education Code is amended to*
18 *read:*

19 81147. (a) When a school building constructed in accordance
20 with plans and specifications approved by the Department of
21 General Services is completed, ~~the notice of completion is filed,~~
22 and all final verified reports and all testing and inspection
23 documents, as required by this article or as required by the rules
24 and regulations adopted pursuant to this article, are submitted to
25 and on file with the Department of General Services, and all
26 required fees paid by the community college district, the
27 department shall issue a certification that the school building
28 complies with the requirements of this article. ~~Nothing in this~~
29 ~~article shall~~ *This article does not prevent beneficial occupancy by*
30 *a community college district prior to the issuance of before this*
31 *certification is issued.*

32 (b) When a school building, constructed in accordance with
33 approved plans and specifications, is completed but final verified
34 reports, as are required under Section 81141, have not been
35 submitted to the Department of General Services due to the
36 incapacitating illness, death, or the default of ~~any~~ persons required
37 to file ~~such~~ *the* reports, the Department of General Services ~~shall,~~
38 upon written request of the community college district, *shall* review
39 all of the project records and make ~~such~~ *the* examinations ~~as~~ it
40 deems necessary to enable it to certify that the school building

1 otherwise complies with the requirements of this article. The
2 Department of General Services may request the community
3 college district to have made, reported, and verified any other tests
4 and inspections~~which~~ *that* the department deems necessary to
5 complete its examinations of the construction.

6 (c) The costs incurred by the Department of General Services
7 in connection with this section shall be paid by the community
8 college district. The actual costs to perform the examinations, tests,
9 and inspections shall be an appropriate cost of the project to be
10 paid from the building funds of the district. Certification of the
11 project by the Department of General Services shall be withheld
12 until all the costs have been paid by the community college district.

13 (d) This section shall not relieve~~any~~ *an* individual of his or her
14 responsibility to file verified reports, as required in Section 81141,
15 or~~any~~ other documents required by the rules and regulations
16 adopted pursuant to this article. This section shall not abrogate the
17 provisions of Section 81144.